IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 18823 of 2006(N)

PETITIONER:

LALITHA P.K., KOTTARATHIL HOUSE,
ARATTUKULANGARA, VAIKOM.

BY ADV. SMT.P.V.ASHA

RESPONDENTS:

----

1. **COMMISSIONER OF COMMERCIAL TAXES,**
   THIRUVANANTHAPURAM.

2. **INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES DEPARTMENT, PALA.

3. **DIRECTOR OF EMPLOYMENT & TRAINING,**
   THIRUVANANTHAPURAM.

4. **EMPLOYMENT OFFICER, TOWN EMPLOYMENT**
   EXCHANGE, VAIKOM, KOTTAYAM DISTRICT.

5. **SMT.P.K. AMMINI, PART TIME SWEEPER,**
   SALES TAX OFFICE, VAIKOM.

BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR – R1 TO R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.9C NO. 18823/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE RELEVANT PORTION OF THE SSLC BOOK OF THE PETITIONER.

3EXT.P2:- COPY OF THE RELEVANT PORTION OF THE REGISTRATION CARD ISSUED FROM THE EMPLOYMENT EXCHANGE.

EXT.P3:- COPY OF THE CALL LETTER DT.5.4.05 OPF 2ND RESPONDENT.

EXT.P4:- COPY OF THE REPRESENTATION DT.4.6.05 OF PETITIONER TO 1ST RESPONDENT.

EXT.P5:- COPY OF THE JUDGMENT DT.9.6.05 IN WP(C) 16371/05.

EXT.P6:- COPY OF THE LETTER DT.3.10.05 OF 1ST RESPONDENT TO PETITIONER.

EXT.P7:- COPY OF THE ARGUMENT NOTE DT.13.10.05 OF PETITIONER.

EXT.P8:- COPY OF THE REPRESENTATION DT.29.10.05 OF PETITIONER.

EXT.P9:- COPY OF THE ORDER NO.A6/31949/05/TX DT.31.10.05 OF 1ST RESPONDENT.

EXT.P10:- COPY OF THE REPRESENTATION DT.16.11.05 OF PETITIONER TO 1ST RESPONDENT.

EXT.P11:- COPY OF THE GO(Rt) NO.2826/04 DT.29.10.04.

EXT.P12:- COPY OF THE JUDGMENT DT.3.3.06 IN WP(C) NO.35164/05.

EXT.P13:- COPY OF THE ORDER NO.A6.59531/05/TX DT.2.5.06 OF 1ST RESPONDENT.

EXT.P14:- COPY OF THE REPRESENTATION DT.30.11.04 OF PETITIONER TO 4TH RESPONDENT.

EXT.P15:- COPY OF THE CERTIFICATE DT.21.12.06 ISSUED BY THE VILLAGE OFFICER

/TRUE COPY/

tss

K.K. DENESAN, J.

= = = = = = = = = = = = = = = = =
W.P.(C) No. 18823 OF 2006 N
= = = = = = = = = = = = = = = = =

Dated this the 26th February, 2007

J U D G M E N T

The petitioner and the 5th respondent were candidates aspiring to get appointment to the post of Part-time Sweeper in the Sales-tax Department, particularly in the vacancy reported to the Employment Exchange by the 2nd respondent. The 5th respondent was selected and appointed as Part-time Sweeper. The petitioner feels aggrieved and she says that she would have been selected and appointed had respondents 1 to 4 took note of the fact that she is an unmarried woman who is entitled for special consideration in terms of Government Orders issued in that behalf. According to the petitioner if the special consideration due to her was duly granted, she would have been selected and appointed in preference to the 5th respondent.

2. It is not disputed that the petitioner is an unmarried woman. It is also not disputed that she is entitled for weightage marks on that score. But the question is who committed the error in omitting to note that she was entitled for special consideration? The

materials on record would suggest that apart from informing the concerned Employment Exchange the fact that the petitioner is an unmarried woman she had through Ext. P14 wanted that aspect to be taken note of by the Employment Officer. But in the list forwarded by the Employment Officer that was not shown. The petitioner who was considered for a post in the lowest rung of the service with her limited education and knowledge did not know that such a serious omission had taken place at the hands of the Employment Officer. Probably, she would have thought that the appointing authority is well aware of that fact. Though the petitioner would say that she had orally stated before the appointing authority that she was entitled for preference as she is an unmarried woman, there is nothing on record to show that any such information was passed on to the appointing authority at the time of selection. I therefore do not find any fault on the part of the appointing authority in selecting the 5th respondent. The appointing authority might have conducted the selection on the basis of materials available before him and those materials do not show

that the petitioner is an unmarried woman.

3. I am, therefore, not inclined to disturb the appointment given to the 5th respondent. However, the petitioner deserves to be dealt with in accordance with law and due justice given to her. The selection already conducted in which the petitioner had lost a valuable right shall not be reckoned at the time of considering the sponsoring of her name by the Employment Exchange against any requisition hereafter made by the departmental authorities for appointment to the post of Part-time Sweepers. That means, in the next requisition to be sent from the office of the Employment Exchange for appointment to the post of Part-time Sweeper, the petitioner's name shall be included. The fact that she is an unmarried woman shall be specifically recorded and that information shall duly be passed on to the appointing authority or any other authority who may conduct the selection. Based on the name thus sponsored by the Employment Officer, the appointing authority concerned shall conduct the selection and appropriate decision taken. Ordered accordingly.

The writ petition is disposed of as above. The petitioner shall serve a copy of the judgment on the 4th respondent for information and due compliance.

K.K. DENESAN
JUDGE

jan/